

**REMARKS**

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-18 remain pending. Claims 1, 5, 7, 11, 13, and 17 are independent.

**§ 102 REJECTION – NISHIGAKI**

Claims 1, 7 and 13 stand rejected under 35 USC 102(e) as allegedly being anticipated by Nishigaki et al. (USP 6,590,678). *See Final Office Action, items 1-4.* Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In the previous Reply filed on February 22, 2005, Applicant demonstrated that Nishigaki cannot teach or suggest generating the three-dimensional look-up table for carrying out the tone conversion processing. Therefore, independent claims 1, 7 and 13 are distinguishable over Nishigaki. Applicant maintains the argument.

The Examiner responds that Nishigaki teaches performing color correction processing (2006) **prior** to gamma correction processing (2008). The Examiner alleges that the gamma correction processing (2008) is equivalent to

the tone conversion processing as recited in the claims. See *Final Office Action, Response to Arguments, page 2, lines 6-14.*

Applicant does not necessarily agree. However, for sake of argument, Applicant assumes that the gamma correction processing (2008) is equivalent to the tone conversion processing as the Examiner alleges. Even the Examiner recognizes that the color correction processing (2006) and the gamma correction processing (2008) takes one after another. In other words, the Examiner admits that the two processes **do not occur simultaneously**.

For clarification purposes, independent claim 1 is amended to recite “carrying out the tone conversion processing and the color correction processing **simultaneously** on the image data.” *Emphasis added.* Clearly, claim 1 is distinguishable over Nishigaki.

Independent claim 7 recites, in part “three-dimensional look-up table generating means for generating a three-dimensional look-up table used for carrying out the tone conversion processing and the color correction processing simultaneously on the image data.” Clearly, claim 7 is distinguishable over Nishigaki.

Independent claim 13 recites, in part “generating a three-dimensional look-up table for carrying out the tone conversion processing and the color correction processing simultaneously on the image data.” Again, it is clear that claim 7 is distinguishable over Nishigaki.

Applicant respectfully requests that the rejection of claims 1, 7, and 13 based on Nishigaki be withdrawn.

§ 103 REJECTION – NISHIGAKI, KIMURA

Claims 3, 9, and 15 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Nishigaki in view of Kimura (USP 5,974,173). See *Office Action, items 5-8*. Applicant respectfully traverses.

Claims 3, 9 and 15 depend from independent claims 1, 7 and 13 respectively. It has been shown above that the independent claims are distinguishable over Nishigaki. Kimura has not been, and indeed cannot be, relied upon to correct for at least the above noted deficiencies of Nishigaki. Therefore, independent claims 1, 7 and 13 are distinguishable over the combination of Nishigaki and Kimura. For at least due to the dependency thereon, claims 3, 9, and 15 are also distinguishable over the combination of Nishigaki and Kimura.

Applicant respectfully requests that the rejection of claims 3, 9, and 15 based on Nishigaki and Kimura be withdrawn.

§ 103 REJECTION – NISHIGAKI, OKU

Claims 2, 4, 5, 8, 10, 11, 14, 16 and 17 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Nishigaki in view of Oku et al. (USP 5,489,996). *See Final Office Action, items 9-18.* Applicant respectfully traverses.

Regarding claims 2, 4, 8, 10, 14 and 16, it is noted that these claims depend from independent claims 1, 7, and 13 directly or indirectly. It has been shown above that the claims 1, 7 and 13 are distinguishable over Nishigaki. Oku has not been, and indeed cannot be relied upon to correct for at least the above-noted deficiencies of Nishigaki. Therefore, independent claims 1, 7 and 13 are distinguishable over the combination of Nishigaki and Oku. Due to the dependency thereon, dependent claims 2, 4, 8, 10, 14 and 16 are distinguishable over the combination of Nishigaki and Oku.

The dependent claims are distinguishable on their own merit as well. In the previous Reply of February 22, 2005, Applicant demonstrated that Nishigaki does not teach or suggest comparing the number of pixels in the image represented by the image data with the number of lattice points in the three dimensional look up table.

It appears the Examiner recognized the argument presented by the Applicant. However, the Examiner asserts that claims recite “a number of pixels,” the claim can be interpreted as comparing a group of pixels (a subset) and not the total number of pixels of the image.

For clarification purposes only, claims 4, 10 and 16 are amended to explicitly recite “comparing a total number of pixels” – a feature which was present implicitly. As clarified, it is clear that Nishigaki and Oku cannot be combined to teach the feature. Thus, the dependent claims are distinguishable over the combination of Nishigaki and Oku on their own merit.

Independent claims 5, 11 and 17, these claims are also clarified to explicitly recite “comparing a total number of pixels.” As demonstrated above, the combination of Nishigaki and Oku cannot teach or suggest this feature. Therefore, independent claims 5, 11 and 17 are distinguishable over the combination of Nishigaki and Oku.

Applicant respectfully requests that the rejection of claims 2, 4, 5, 8, 10, 11, 14, 16 and 17 based on Nishigaki and Oku be withdrawn.

§ 103 REJECTION – NISHIGAKI, OKU, KIMURA

Claims 6, 12 and 18 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Nishigaki in view of Oku and in view of Kimura. See *Final Office Action, items 19-22*. Applicant respectfully traverses.

Claims 6, 12 and 18 depend from independent claims 5, 11, and 17. It has been shown above that claim 5, 11 and 17 are distinguishable over the combination of Nishigaki and Oku. Kimura has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Nishigaki and

Oku. Therefore, claims 5, 11 and 17 are distinguishable over Nishigaki, Oku and Kimura.

For at least due to the dependency thereon, claims 6, 12 and 18 are also distinguishable over the combination of Nishigaki, Oku and Kimura.

Applicant respectfully requests that the rejection of claims 6, 12 and 18 based on Nishigaki, Oku, and Kimura be withdrawn.

#### **CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

**Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit

U.S. Application No. 09/842,771  
Docket No. 2091-0242P  
Reply filed October 17, 2005  
Page 17 of 17

Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16  
or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP

By: \_\_\_\_\_



Michael R. Cammarata  
Reg. No. 39,491

HNS  
MRC/HNS  
2091-0242P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachment(s):